



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
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DEC 10 2004

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By  
1/12/05

Ms. Kathleen Hartnett White  
Chairman  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Dear Chairman White:

Thank you for your letter of November 3, 2004, in which you enclosed two copies of the revised Environmental Performance Partnership Agreement between the Texas Commission on Environmental Quality (TCEQ) and the U.S. Environmental Protection Agency (EPA) Region 6.

We are pleased that our negotiations on the updated Environmental Performance Partnership are complete. We look forward to discussing future strategic planning, priority program assessments, and performance measure alignments with the TCEQ during FY 2005. These discussions should lead us toward a revised Performance Partnership Agreement to be completed in FY 2006.

Thank you for your support in completing this agreement. As you requested, I have signed it and am returning one original signed copy to you.

Sincerely yours,

Richard E. Greene  
Regional Administrator

Enclosure

EPA DALLAS, TX  
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# **ENVIRONMENTAL PERFORMANCE PARTNERSHIP AGREEMENT**

between

**Texas Commission on Environmental Quality**

and

**U.S. Environmental Protection Agency, Region 6**

We are pleased to execute this Environmental Performance Partnership Agreement (PPA) which sets forth our environmental commitments. This agreement also reflects our mutual recognition that continued environmental progress requires an increased focus on setting goals, and measuring results, while promoting a partnership with each agency carrying out the responsibilities for which it is best suited.

The purpose of this agreement is to define the roles and responsibilities of the Texas Commission on Environmental Quality (TCEQ) and the U.S. Environmental Protection Agency, Region 6 (EPA) for implementing the National Environmental Performance Partnerships System (NEPPS). This agreement is intended to provide the TCEQ with greater flexibility to address the state's highest environmental priorities, improve environmental performance, achieve administrative savings, and strengthen the partnership between the EPA and the TCEQ.

The TCEQ and EPA have jointly agreed that this agreement does not supersede any existing federal statutes, regulations, program delegation agreements or memoranda of understanding. However, the TCEQ and EPA are committed to cooperatively reviewing and amending such documents to include the performance goals of NEPPS and the Government Performance Results Act (GPRA).

The TCEQ and EPA have jointly agreed to combine the following categorical grants into one block grant or PPG:

- Air Pollution Control Program (Clean Air Act Amendments, Section 105)
- Hazardous Waste Management (Resource Conservation and Recovery Act)
- Nonpoint Source [Clean Water Act, Section 319(h)]
- Pesticides in Ground Water Program (FIFRA)
- Public Water System Supervision Program
- Underground Injection Control Program
- Underground Storage Tank Administration
- Water Pollution Control Program (Clean Water Act, Section 106)

The TCEQ and EPA jointly agree that participating in NEPPS has allowed the TCEQ to achieve the flexibility to address its highest environmental priorities by reallocating and reprogramming federal funds.

The TCEQ and EPA have jointly agreed that participating in NEPPS has allowed the TCEQ to report and the EPA to evaluate environmental progress through the use of performance measures. Since

1997, the TCEQ has provided quarterly performance reports to the EPA. These reports contain outcome, output, efficiency and explanatory measures to assess the TCEQ's success in implementing its environmental programs.

The TCEQ and the EPA have jointly agreed that participating in NEPPS has significantly reduced administrative burdens and costs by reducing the number of grant applications, work plans, reports and certifications associated with traditional categorical grants. Through a collaborative effort, the TCEQ was able to significantly reduce the number of grant commitments and reports provided to the EPA.

The TCEQ and EPA have jointly agreed that the TCEQ's Strategic Plan 2005-2009, represents a significant step forward in gaining public participation and stakeholder involvement in determining environmental priorities.

The TCEQ and EPA have jointly agreed that the project managers for this agreement are the TCEQ's Manager of the Strategic Planning and Grants Management Section and the EPA's Co-chair Project officers from the Air State and Tribal Operations Section of the Multimedia Planning and Permitting division and the State/Tribal Programs Section of the Water Quality Protection Division of EPA.

The TCEQ and EPA jointly agree to build upon the successes of increased flexibility, improved environmental performance and administrative savings, as described above.

## **ROLES AND RESPONSIBILITIES**

The TCEQ and EPA have jointly agreed to the roles and responsibilities identified below:

The EPA will ensure that all citizens are assured an adequate level of environmental protection.

The TCEQ serves as the primary environmental agency of the State of Texas.

The EPA will ensure that federal laws are implemented efficiently and effectively, and will exercise sound stewardship and management of federal funds.

The TCEQ will ensure that state laws are implemented efficiently and effectively, and will exercise sound stewardship and management of state and federal funds.

- The EPA will work with the TCEQ and EPA headquarters to ensure that Texas is treated equitably with other states.
- Both the TCEQ and EPA have a responsibility to assure that laws are implemented with all reasonable flexibility and to continually seek to improve the implementation of environmental programs.

The EPA, as the nation's primary environmental agency, will:

- provide funding for all federally delegated programs;  
address international or interregional issues;  
assist states in providing technical assistance to state agencies, local governments, and regulated entities;  
assist states in addressing temporary work load fluctuations;  
assist states in addressing specific regulatory matters of unusual complexity;  
assist states in responding to emergencies;  
monitor and assess the status of the environment--nationally, and analyze national trends;  
assist states by providing federal funds as direct service providers; and  
implement nondelegated federal programs.

The TCEQ, as the state's primary environmental agency, will:

ensure that progress is being achieved toward environmental goals;  
ensure that all customers, the general public, and the regulated community are afforded consistent, high quality and timely services;  
work toward fulfillment of state and federal statutory and regulatory requirements;  
assist EPA by supporting EPA's need to maintain national data bases in order to monitor environmental conditions, track progress, assure consistency, and respond to Congressional inquiries; and  
assure that federal funds are expended and accounted for appropriately.

The EPA and TCEQ has a responsibility to identify and minimize the scope and frequency of reporting by the TCEQ, and the TCEQ has a responsibility to report accurate and timely data.

- The TCEQ and EPA have a joint responsibility to facilitate the electronic reporting of data as a matter of efficiency for both agencies and for the regulated community.

The TCEQ will continue to work towards providing EPA real-time access to selected agency data bases (exclusive of confidential data) and assist EPA in ensuring that its staff is appropriately trained to access selected TCEQ data bases. Electronic data access, where available, should result in reduced reporting requirements.

TCEQ will negotiate and report core performance measures with EPA as appropriate.

- Each agency must take adequate steps to ensure timely, complete and appropriately directed communication with the other to promote common understanding and avoid surprises.

The EPA Region 6 will notify TCEQ at the earliest feasible date when making national comparisons using information reported by the TCEQ.

The TCEQ and EPA will work to ensure that the TCEQ, as the direct implementer of most state and federal environmental programs under its jurisdiction, exercises the maximum flexibility allowable under existing laws, regulations, and agreements.

- In those program areas where EPA is the direct service provider, the EPA will provide consistent, high quality and timely service to the citizens of Texas.

The TCEQ and EPA will ensure that the balance of unexpended federal funds from each fiscal year of the PPG are negotiated and redirected based on mutual agreement.

The EPA will acknowledge that unexpended federal funds shall be redirected to other priorities when successfully completing work plan activities contained in the PPG. These funds may be attributed to program cost savings and efficiencies and shall be redirected to other priorities without being penalized by reduced future grant funding.

The agreement is effective on the date of the joint party signatures and will remain in effect until both parties mutually agree to revise or rescind this agreement.



Kathleen Harman White

Chairman

Texas Commission On Environmental Quality

11-2-04  
Date



Richard E. Greene

Regional Administrator, Region 6

U.S. Environmental Protection Agency

12-20-04  
Date

## STRUCTURE AND TERMINOLOGY

The TCEQ and EPA jointly agreed to deviate from traditional categorical work plans in developing this agreement. The structure of this agreement is consistent with the Strategic Planning and Budgeting System used by the State of Texas. This system requires state agencies to biennially develop a strategic plan which must include goals, objectives, strategies and performance measures. State agencies are then required to request legislative appropriations to implement that strategic plan. The Legislature meets for 140 days every two years to appropriate funds to agencies to implement that plan for a two-year period by strategy with specific performance targets for selected performance measures. The request to receive legislative appropriations has been modified to serve as the work plan for this agreement.

The TCEQ and EPA have jointly agreed to use in this agreement the same set of strategies that the TCEQ uses to request and receive legislative appropriations. The use of the same goals, objectives, strategies and performance measures represents a significant efficiency for the TCEQ because it avoids creating an entirely new document for the partnership agreement and allows federal grant commitments to be dramatically streamlined when placed in this appropriations-based format.

The TCEQ requests and receives legislative appropriations for strategies, as opposed to goals or objectives. Consequently, strategies are the principal building blocks around which the TCEQ legislative appropriations request is organized. Since this document was patterned after the appropriations request format, strategies are also the basic building blocks of this document.

### Strategy Components

Each strategy contains components of the following three narrative sections:

- Budget Detail** — A listing of the total amount of state and federal funds allocated to each strategy. This includes objects of expense, the method of financing, and the number of full-time equivalent positions (FTEs) that support each strategy.
- Strategy Description and Justification** — A narrative description of the purpose of the strategy and the major activities included in the strategy. Not only is the described work being performed, it also describes *how* it is being performed and may include a discussion of the resources and processes used to implement the strategy. This description usually identifies any established performance targets or standards and the TCEQ's ability to meet them.
- **External/Internal Factors Impacting Strategy** — A narrative description of the factors which may affect the implementation of the strategy now and in the future. This description typically identifies the populations served and the TCEQ's ability to serve them. Factors impacting a strategy may include a discussion of current conditions that may affect the implementation of the strategy such as federal and state laws, and federal match and/or maintenance of effort requirements. However, the description may also include a discussion of anticipated changes affecting the strategy, such as pending legislation and proposed changes in federal rules or regulations.

**State & Federal Relationship** — This section has been developed for each strategy, specifically for this agreement. These sections stipulate the state-federal relationship for each federal program or element of a program that is pertinent to a strategy.

- **Core & Non-Core Commitments** — An important aspect of the state-federal relationship is the distinction between core and non-core commitments. As those terms are used in this document, core commitments are generally those program elements which are recognized as being basic, ongoing, or well-settled aspects of the state-federal relationship. Non-core commitments are typically obligations viewed as relating to nonrecurring program elements, projects of temporary duration, or emergency issues.

Both parties expect that if core or non-core commitments are completed, the TCEQ will have the flexibility to redirect any federal funds associated with these commitments to enhanced performance on other core commitments or non-core commitments without any reduction in federal funding. This concept is consistent with the purpose statement and other sections specified in the 40 CFR Part 35 Environmental Program Grants - State, Interstate, and Local Government Agencies; Final Rules, January 9, 2001.

- **Performance Measures** — An additional aspect of each strategy package which has particular importance for this agreement is the set of performance measures which establish targets. Under the Texas Strategic Planning and Budgeting System, state agencies must obtain approval of the measures on which they will quarterly report to the Governor's Office of Budget, Planning and Policy from the Legislative Budget Board. The Texas State Auditor's Office periodically audits the accuracy of measures being reported by state agencies.

There are four types of performance measures included in the agreement: Outcome Measures, Output Measures, Efficiency Measures and Explanatory Measures. Outcome measures are indications of the progress achieved in addressing an environmental condition. Outcome measures are indications of agency or program effectiveness. However, it should be recognized that environmental outcomes may be strongly affected by other factors outside of the agency's control, such as meteorological conditions and population growth. Output measures are indications of the level of activity conducted by an agency. Efficiency measures indicate an agency's efficiency in performing a function and explanatory measures provide useful context for understanding the significance of other measures.

### Quarterly Performance Reports

The TCEQ will allow EPA to monitor agency performance by providing the EPA with copies of the quarterly and annual performance reports which are submitted to the Governor's Office and the Texas Legislative Budget Board. The TCEQ will discuss any measures in which EPA is interested, but recognize only those measures identified as federal core performance measures as a basis for formal evaluations of TCEQ's performance.

Measures which are not viewed as being pertinent to the state-federal relationship are designated as state-only; however, the TCEQ would discuss performance on such measures with EPA as an informational matter. Measures which are not designated as state-only should be viewed as grant commitments, since

commitments and deliverables are specifically identified in the state-federal relationship section of each strategy.